



LEE COUNTY BOARD OF COUNTY COMMISSIONERS

ZONING
and
COMPREHENSIVE PLAN AMENDMENT HEARING
AGENDA

Wednesday, September 2, 2020

9:30AM

REZ2019-00020
Z-20-022

Rezoning (Amazon Sheds and Gazebos)

DCI2019-00020
Z-20-016

Apaloosa Lane Minor RPD

CPA2019-00009 &
CPA2019-00011

Small Brothers Commercial

CPA2019-00009

&

CPA2019-00011

**SMALL BROTHERS
COMMERCIAL**

Summary Sheet
SMALL BROTHERS COMMERCIAL
CPA2019-00009 & CPA2019-00011

Request:

- CPA2019-00009 - Amend Policies 1.4.5 and 33.3.5, and create Objective 33.5 to allow commercial development on properties located in Southeast Lee County with previously approved commercial zoning in the Density Reduction/Groundwater Resource (DR/GR) Future Land Use category; Amend Policy 55.1.3 to maintain consistency with State Statutes.
- CPA2019-00011 - Amend Maps 6 and 7 to add 12.1 ± acres to the Lee County Utilities Future Water and Wastewater Service Areas.

Public Comments:

One member of the Public addressed the LPA, stating opposition to the proposed amendments and concern over the potential flooding upstream.

LPA Motions:

A motion was made to recommend the BoCC transmit CPA2019-00009 with modifications. The motion included a request to revise the language to further address impacts to species, impacts to flowways, and rewrite Policy 33.5.1, #5 for clarity. The motion was called and passed 4-1.

A motion was made to recommend the BoCC transmit CPA2019-00011 as recommended by staff. The motion was called and passed 5-0.

Staff Recommendation:

Staff has incorporated appropriate changes to address the LPA motion and discussion as well as comments Lee County has received from the South Florida Water Management District. These changes, including an explanation for each is found in Part 5C of the attached Staff Report.

Staff recommends that the Board of County Commissioners transmit CPA2019-0009 and CPA2019-00011. Attachment 1 contains the staff recommendation as updated to address the LPA motion.

**STAFF REPORT FOR
CPA2019-00009 & CPA2019-00011:
Small Brothers Commercial**

Privately Initiated Text & Map Amendments to the Lee Plan



Applicant:

Small Brothers
Commercial

Representative:

Daniel DeLisi, AICP

Property Location:

SW corner of Corkscrew
Road & Alico Road
Intersection

Size:

±12.1 acres

Planning Community:

Southeast Lee County

Commissioner District:

District #3

Attachments:

1. Recommended Text Amendments
2. Proposed Maps 6 & 7 Boundary Changes
3. Link to Applicant Materials

Hearing Dates:

LPA: 7/27/2020

Transmittal: 9/2/2020

REQUESTS

- Amend Policies 1.4.5 and 33.3.5, and create Objective 33.5 to allow commercial development on properties located in Southeast Lee County with previously approved commercial zoning in the Density Reduction/Groundwater Resource (DR/GR) Future Land Use category; Amend Policy 55.1.3 to maintain consistency with State Statutes.
- Amend Maps 6 and 7 to add 12.1 ± acres to the Lee County Utilities Future Water and Wastewater Service Areas.

SUMMARY

The amendments are to allow commercial development with a maximum intensity of 10,000 square feet per upland acre on properties located in Southeast Lee County that were zoned commercial prior to the creation of the DR/GR future land use category (September 17, 1990). Properties meeting this criteria will be required to use the planned development rezoning process in order to ensure commercial development will be: consistent with the process required to allow commercial development in the Environmental Enhancement Preservation, Mixed-Use, and Rural Golf Course Communities; compatible with the Wetlands and DR/GR future land use categories; and, designed to protect water and other environmental resources.

FIGURE A: AERIAL LOCATION MAP



RECOMMENDATION

Staff recommends that the Board of County Commissioners **TRANSMIT** CPA2019-00009 and CPA2019-00011, as provided in attachments 1 and 2, based on the analysis and findings provided in this staff report.

**PART 1
BACKGROUND**

Request:

The applicant has submitted two applications to amend the Lee Plan, a text amendment and a map amendment. The text amendment is to amend Policies 1.4.5 and 33.3.5 and create Objective 33.5 in order to allow neighborhood commercial development on properties located in Southeast Lee County with the Density Reduction/Groundwater Resource (DR/GR) Future Land Use category (see Attachment 1).

The map amendment is to add 12.1 acres to the future water and wastewater service areas, Lee Plan Maps 6 and 7 (see Attachment 2).

Subject Property:

Throughout this staff report the property that will benefit from the text amendments and that is being added to Maps 6 and 7 is referred to as “the subject property”.

The subject property is on the south side of Corkscrew Road, near the intersection of Alico Road and Corkscrew Road. As provided in Table 1, the subject property was rezoned to Community Commercial (CC) in 1982 and received a variance (Zoning Resolution ZAB-82-337) to allow a private sewer treatment plant on the western side of the property in association with the proposed development of a mobile home park on the property to the south (SP-82-337). The mobile home community was never constructed and is now owned by South Florida Water Management District.

TABLE 1: SUBJECT PROPERTY

STRAP	Size/ Use	Future Land Use Category	Zoning	Wellfield Zone
22-46-26-00-00001.0010	12.1 acres/ vacant	DR/GR & Wetlands	Zoned CC; Zoning Resolution ZAB-82-337, Hearing #81-11-1 DCI	6-month to 5-year travel time

Surrounding Properties:

The surrounding properties to the north, south, east and west are predominantly within DR/GR, Wetlands and Conservation future land use categories and are zoned Agricultural (AG-2), Mobile Home (MH-1), Industrial Planned Development (IPD) and Residential Planned Development (RPD). Additional information on the surrounding properties is provided below in Table 2.

**TABLE 2:
SURROUNDING PROPERTIES**

	Future Land Use Category	Zoning	Existing Use	Wellfield Travel Times
North	DR/GR & Wetlands	West Lakes Excavation IPD; 177.6 acre mining	Corkscrew Road, Mining operation	ASR Zone, 6 months to 5 years
Northeast	DR/GR, Public Facilities & Wetlands	AG-2	Lee County Utilities Wellfield	ASR Zone, 6 months to 5 years

South	Conservation Lands Wetlands & Uplands	MH-1	Conservation (Governmental – SFWMD)	6 months to 5 years
East	DR/GR & Wetlands	AG-2	Conservation (Governmental – Lee County)	ASR Zone, 6 months to 5 years
West	DR/GR	Corkscrew Shores RPD; approved for 800 residential units	Single Family Residential	1 to 5 years

PART 2
STAFF DISCUSSION AND ANALYSIS OF PROPOSED AMENDMENTS

The subject property is located in the Southeast Lee Planning Community and is within the DR/GR and Wetlands future land use categories.

Southeast Lee Planning Community:

The Southeast Lee Planning Community allows for agricultural, residential, conservation and mining operations. Development in the Southeast Lee County community plan area is guided by Goal 33 which seeks to balance the need protect and restore natural resources and groundwater resource areas and accommodate managed growth. Residential and commercial developments are not anticipated to be significantly increased except in very limited areas where development rights are concentrated by the Lee Plan (Vision and Goal 33). Policy 33.3.5 permits commercial development in Southeast Lee County in conjunction with an Environmental Enhancement and Preservation Community, Rural Golf Course Community, or Mixed-Use Community which are specifically depicted on Map 17: Southeast DR/DR Residential Overlay and do not include the subject property. These developments, through requirements of the Lee Plan¹ and approved Planned Development zonings², have committed substantial amounts of land for environmental purposes and resource protection, including restoration of flowways and habitat for listed species.

Future Land Use Category:

The subject property has been designated as DR/GR and Wetlands on the Future Land Use Map since 1990. The DR/GR and Wetlands future land use categories, as provided in Policies 1.4.5 and 1.5.1 below, restrict commercial development.

Policy 1.4.5.2.a provides that *“Commercial and civic uses can be incorporated into Mixed-Use Communities, Environmental Enhancement and Preservation Communities, and Rural Golf Course Communities that are depicted on Map 17 to the extent specifically provided in those policies.”* There are no other references to commercial uses in Policy 1.4.5. The subject property is not in any of the areas identified in the Policy.

Policy 1.5.1 provides that *“land uses in Wetlands consist of very low density residential uses and recreational uses that will not adversely affect the ecological functions of wetlands. All development in*

¹ Lee Plan Goal 13: Private Recreation Facility Planned Development; Objective 33.3: Residential and Mixed-Use Development

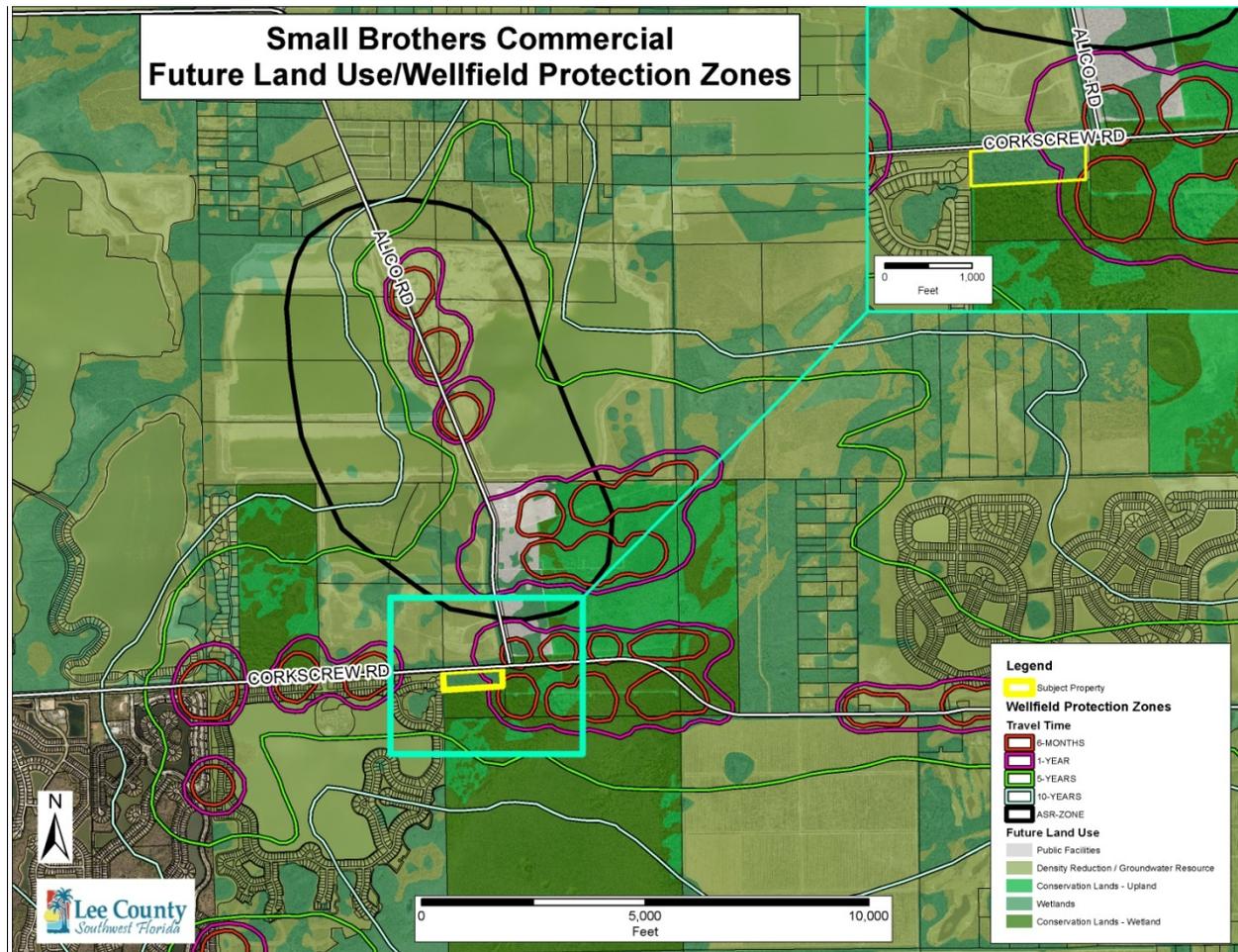
² DCI2014-00009 (WildBlue); DCI2019-00018 (Verdana Village); DCI2019-00007 (Old Corkscrew Golf Club Commercial)

Wetlands must be consistent with Goal 124 of this plan.” While Policy 1.5.1 does not allow for commercial uses in the Wetlands future land use category, Policy 124.1.2 provides for development of non-residential uses on wetlands that have been impacted, or will be impacted, in accordance with a state agency permit with non-residential uses permitted in the immediately adjacent, least intense, upland future land use category. In the case of the subject property, the immediately adjacent, least intense future land use categories are DR/GR and Conservation Lands – Uplands. Neither of these categories would allow for commercial uses on the subject site.

Wellfield Protection:

The subject property is within the Wellfield Protection Zones for the Pinewoods Water Treatment Plant, which provides the drinking water supply to much of south Lee County. The Pinewoods Water Treatment Plant treats groundwater from the Sandstone and Surficial aquifers using nanofiltration and water from the Lower Hawthorn aquifer using reverse osmosis from the Pinewoods wellfield. The water from both treatment units is then blended together and sent to degasifiers, where hydrogen sulfide is removed and the water is further treated.

FIGURE B: FUTURE LAND USE CATEGORIES & WELLFIELD PROTECTION ZONES



The Wellfield Protection Ordinance provides regulations to ensure that Lee County has adequate potable water supply (quality and quantity) by restricting activities and substances that may occur or be used within the County's Wellfield protection zones. Objective 63.1 and Policies 63.1.2 and 63.1.3 require all development applications for the subject property to be reviewed by the staff hydrologist for consistency with the Wellfield Protection Ordinance. This is because the entire property is within the 10-year and 5-year travel times from existing wellheads, and portions of the property are within the 1-year and 6-month travel times (Policy 63.1.2). The upland portions are also within the DR/GR future land use category (Policy 63.1.3).

Community Commercial (CC) Zoning District:

The Lee County Land Development Code (LDC), Section 34-841 (g), provides "the purpose and intent of the CC district is to permit the designation of suitable locations for **medium- to large-scale consumer-oriented commercial facilities, particularly for multiple-occupancy complexes known as community or regional shopping centers**, and to facilitate their proper development and use. In addition to the retail sale of consumer goods, this district is intended to permit a wide range of services, financial and other, including business and professional offices, all arranged in discrete commercial centers or evolving business districts. **Such centers or districts differ from neighborhood commercial facilities in concentrating a greater floor area of use and a broader mix of goods and services in order to serve a wider market or service area and a larger population. This is expected to create greater impact on surrounding land uses and therefore require buffering and designed gradients of intensity adjacent to less intense uses** (emphasis added)." As its intended, the CC district is not consistent with either of the property's future land use categories (Wetlands and DR/GR) or the property's location within Lee County's Wellfield Protection Zones.

Closer examination of the uses allowed within the CC district confirm that there are a number of land uses allowed that are not consistent with the Wellfield Ordinance. Given the subject property's proximity to wellfields, land uses should be limited to protect the county's drinking water supply. These uses includes things such as auto and boat repair, fuel pumps, car wash, cleaning and maintenance services, funeral homes, on-site dry cleaning, research and development laboratories, vehicle equipment dealers or any other similar use that may contain the storage of hazardous chemicals. Additionally, through a Special Exception or other process, uses such as bus station or depot, excavation of oil of gas and commercial parking lot could be permitted in the CC district could be approved if deemed consistent with the Lee Plan. Many of these uses have been specifically prohibited on properties subject to the Environmental Enhancement and Preservation Community Overlay (Policy 33.3.4.e). Additionally, in the Rural Golf Course Community Overlay, the storage of toxic or hazardous substances is specifically prohibited (Policy 13.3.9).

There are uses that are allowed in the CC district such as places of worship and schools that would be appropriate on the subject property; however, development of commercial uses would be inconsistent with the subject property's future land use categories, Wellfield Protection Ordinance, and commercial limitations identified for the Southeast Lee County community plan area (Policy 33.3.5). Furthermore, development of the subject property would be limited in accordance with: Florida Statute 163.3194 which requires all development must be consistent with the local comprehensive plan; LDC 34-491 which provides where there is a conflict between the Lee Plan and any regulation in the LDC, the Lee Plan prevails; LDC 10-81 which requires that development order approvals, including amendments to existing or approved development orders, must be consistent with the Lee Plan provisions and approved zoning actions applicable to the subject property at the time the approvals are issued; and, Lee Plan

Chapter XIII which states that “development permits issued by the county must be consistent with the Plan as adopted on the date of issuance.”

Proposed Lee Plan Amendments

To address the inconsistencies of allowing commercial uses on the subject property with the Lee Plan, the proposed text amendments would require the subject property be rezoned to a planned development in order to ensure consistency with commercial development allowed in the Environmental Enhancement Preservation, Mixed-Use, and Rural Golf Course Communities; compatibility with the Wetlands and DR/GR future land use categories; and, protection of Southeast Lee County’s water and other environmental resources.

The remainder of this report identifies the proposed text amendments and analysis by staff. All proposed edits are shown in strikethrough and underline of existing Lee Plan language.

Cross References in POLICY 1.4.5 (DR/GR future land use category): The requested amendments to Policy 1.4.5 simplifies existing language and adds a cross-reference to the new Objective 33.5, which is proposed to address stand-alone commercial development in Southeast Lee County. Staff supports adoption of the following amendments to Policy 1.4.5:

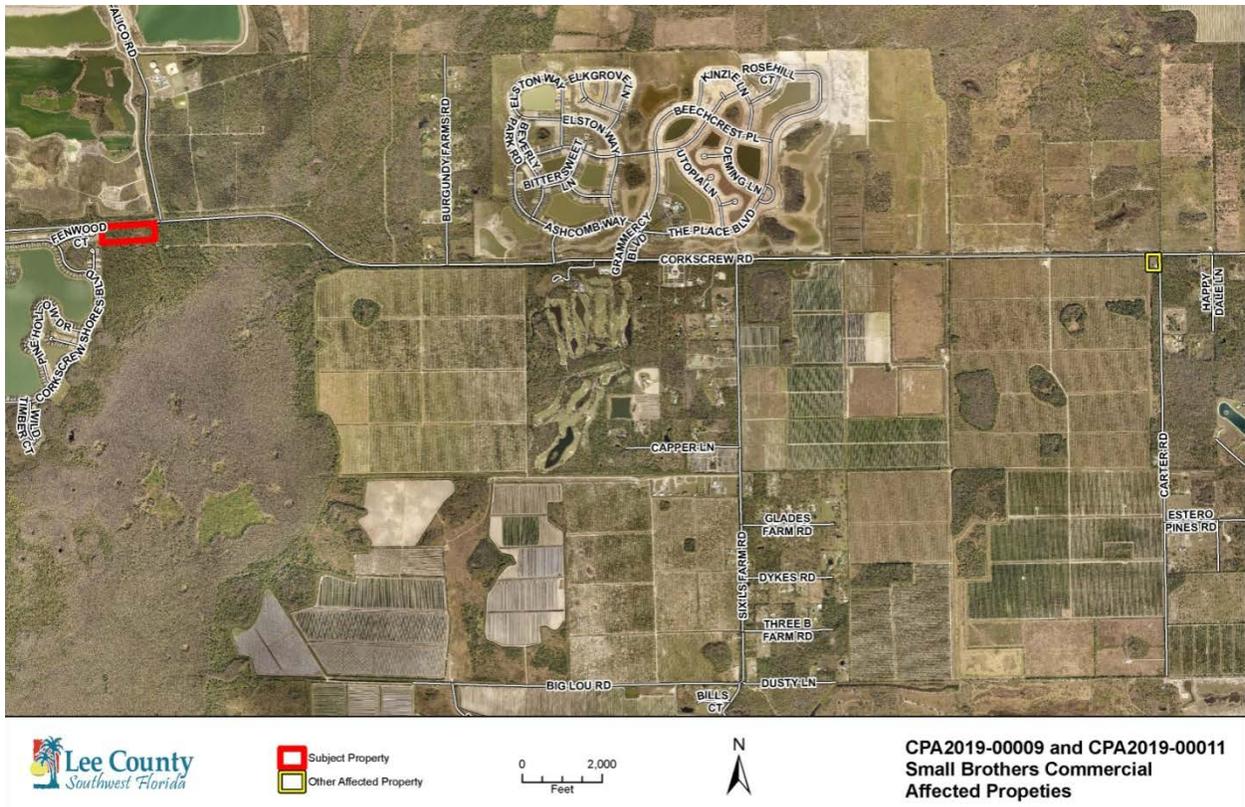
POLICY 1.4.5:

2. Permitted land uses include agriculture, natural resource extraction and related facilities, conservation uses, public and private recreation facilities, and residential uses at a maximum density of one dwelling unit per ten acres (1 du/10 acres). See Objectives 33.3 and 33.4 ~~Policies 33.3.2, 33.3.3, and 33.3.4~~ for potential density adjustments resulting from concentration or transfer of development rights.
 - a. ~~For residential development, also see Objective 33.3 and following policies.~~ Commercial and civic uses ~~can~~ may only be permitted on properties in Southeast Lee County as provided in Objectives 33.3 and 33.5, incorporated into Mixed Use Communities, Environmental Enhancement and Preservation Communities, and Rural Golf Course Communities that are depicted on Map 17 to the extent specifically provided in those policies.

General Commercial Limitations in Southeast Lee County: The following amendment to Policy 33.3.5 is proposed to maintain consistency within the Lee Plan:

POLICY 33.3.5: Commercial uses may only be permitted if on property with existing conventional commercial zoning approved prior to September 17, 1990, or if incorporated into a Mixed-Use Community, Environmental Enhancement and Preservation Community, or Rural Golf Course Community depicted on Map 17. The maximum commercial floor area that may be approved within the Southeast Lee County community plan area may not exceed 300,000 square feet.

The amendment to Policy 33.3.5 is necessary to allow commercial development on the subject property which is otherwise limited by its location within the Southeast Lee County community plan area and DR/GR and Wetlands future land use categories. The proposed text amendments would be applicable to the subject property and one other property in Southeast Lee County that also has conventional commercial zoning approved prior to the adoption of the DR/GR future land use category.



The amendment to Policy 33.3.5 will require development of the subject property to comply with the overall commercial intensity threshold for the Southeast Lee County community plan area of 300,000 square feet. This will ensure that the amount of commercial development will not promote the urbanization of this less dense area of the county while providing commercial services to the residents in the immediate area. Policy 33.3.5 also limits additional intensity and external impacts, such as traffic, to a level that is already anticipated within Southeast Lee County.

A review of recent approvals and recent applications in Southeast Lee County demonstrate that of the 300,000 square feet, there is still commercial square footage available - WildBlue (DCI2014-00009) was approved with 40,000 square feet of commercial, Verdana Village (DCI2019-00018) was approved with 100,000 square feet of commercial, and Old Corkscrew Golf Club Commercial (DCI2019-00007) has requested 100,000 square feet of commercial, which leaves approximately 60,000 square feet of commercial development available for approval³.

Commercial Development Requirements: These text amendments create a new Objective in Goal 33 to provide guidance for commercial development within the DR/GR future land use category within Southeast Lee County. The new Objective 33.5, specific for commercial zonings approved prior to the adoption of the DR/GR future land use category is proposed as follows:

³ The calculation of available commercial square feet per Policy 33.3.5 is based on the maximum commercial square footage either approved by zoning, or as being requested in the case of DCI2019-00007 which has not yet been heard by the BoCC. Actual commercial square feet will be confirmed at time of development order and could be less than the maximum approved by zoning.

OBJECTIVE 33.5: COMMERCIAL ZONING APPROVED PRIOR TO SEPTEMBER 17, 1990: To allow development of commercial uses on properties designated DR/GR that have existing conventional commercial zoning approved prior to September 17, 1990.

The addition of Objective 33.5 is appropriate to address stand-alone commercial development on properties with existing commercial zoning in Southeast Lee County. Goal 33 does not currently have an Objective that addresses commercial as a primary use since the only commercial currently permitted is subject to Objective 33.3: Residential and Mixed Use Development. Objective 33.3 contains a number of residential overlays, some of which allow for commercial uses, but all of which require residential development as the primary use and, if proposed, the commercial uses as secondary. All of these overlays are also identified on Lee Plan Map 17: Southeast DR/GR Residential Overlay. This map does not include or identify commercial-only development.

Commercial development allowed under Objective 33.3 requires a planned development rezoning. The same requirement is proposed in Policy 33.5.1. Through the planned development process consistency with the additional criteria outlined in Policy 33.5.1 must be demonstrated. Policy 33.5.1 is proposed as follows:

POLICY 33.5.1: Property with existing conventional commercial zoning approved prior to September 17, 1990 may be approved for development of commercial uses if the project is found consistent with and demonstrates through a planned development rezoning all of the following:

1. The allowable total square footage for commercial uses in Southeast Lee County set forth in Policy 33.3.5 is not exceeded.
2. The development will be served by central water and sewer.
3. The development will be designed to minimize impacts to wetlands by only allowing impacts for stormwater retention/detention, accessways, and limited parking. Buildings and structures are prohibited in wetlands. Deviations may be considered through the planned development process to facilitate protection of wetlands.
4. The development does not exceed 10,000 square feet per upland acre of commercial uses and does not include any of the following uses: auto parts stores, lawn and garden supply stores, fuel pump stations, drycleaners (on-site), or any other use that is not compatible with protecting Southeast Lee County's environment.
5. If development is proposed within the 6-month, 1-year, 5-year, or 10-year travel zones of the Wellfield Protection Ordinance, a total of 1 ½ -inches of treatment, ½ -inch of which must be completed via dry pretreatment, must be provided at a minimum. Dry and wet treatment must be located outside of the 6-month and 1-year travel zones. The entire development will be considered to be within the most restrictive wellfield protection zone as provided in the Wellfield Protection Ordinance.
6. Ground water quality monitoring well(s) for the Surficial Aquifer System are provided and located between Lee County's nearest production well(s) and the development.
7. Flowway connection(s) are provided for all surface water discharge to adjacent Conservation Lands.

The criteria proposed in Policy 33.5.1 is to ensure wellfield and wetlands are protected. To ensure that wellfields are protected and that surface and groundwater is not degraded, which is critically important for protecting the county's public drinking water supply and groundwater, criteria is proposed to limit uses to those compatible with the wellfield protection zones and to allow for conditions that address mitigation for potential impacts. Minimizing impacts to wetlands on this project will allow recharge to the public supply wells. To ensure wetlands are protected, criteria is proposed to limit impacts on wetlands by not allowing construction of buildings or structures in these areas and restricting what types of improvements may be permitted. Consistent with Objective 60.4, the criteria allows for wetlands to be incorporated into future surface water management systems required for development. In addition, through the planned development rezoning process, deviations necessary to facilitate protection of wetlands may be considered.

The applicant has also proposed amendments to Lee Plan Maps 6 and 7 that would allow the property to connect to public water and sewer services (CPA2019-00011). Staff supports the request to add the property to Lee Plan Maps 6 and 7.

Public Service Availability:

The proposed amendment to the Future Land Use Map would expand the types of uses allowed on the subject property to include commercial uses. There are adequate potable water, sanitary sewers, solid waste, police, and fire/EMS, and transportation facilities to serve the subject property.

Transportation: The subject property is located at the southwest corner of Corkscrew Road and Alico Road. Alico Road is a major collector roadway and Corkscrew Road is an arterial facility, both are maintained by the County. Corkscrew Road from Ben Hill Griffin Parkway to Alico Road will be widened from 2-lane to 4-lane within 5 years.

Lee Plan amendments require a short range (5 years) and long range (20+ years) level of service (LOS) analysis. The 5 year and the long range 2040 LOS analysis indicates that in the three mile study area all the roadway segments are anticipated to operate at or better than the adopted LOS standard in year 2024 and year 2040. Based on the submitted data and analysis, there are no required modifications to the adopted Lee County 2040 Cost Feasible Plan network as result of this request.

Utilities: Potable water is available from the Pinewood Water Treatment Plant and wastewater service would be provided by the Three Oaks Water Reclamation Facility.

Solid Waste: The subject property has access to solid waste services. Solid waste collection services will be provided by Lee County using the Lee County Resource Recovery Facility and the Lee-Hendry Regional Landfill.

Fire: Estero Fire Rescue indicated they are capable of providing fire protection.

EMS: The subject property has access to EMS services by Lee County Emergency Medical Services.

Police: The Lee County Sheriff will provide law enforcement services primarily from the Lehigh Acres and Bonita Springs substations. The future development of the subject property will not affect the ability of the Lee County Sheriff's Office to provide core services at this time.

**PART 4
CONCLUSIONS**

The proposed text amendments will allow two properties in Southeast Lee County with existing zoning that is inconsistent with the Lee Plan to obtain limited commercial development by rezoning to a planned development.

The proposed amendments will require development to:

- Be consistent with the allowable total square footage for commercial uses in Southeast Lee County set forth in Policy 33.3.5;
- Connect to central water and sewer;
- Limit wetland impacts;
- Limit intensity to 10,000 square feet per upland acre and precludes uses that are not compatible with protecting Southeast Lee County's environment;
- Provide enhanced stormwater management system;
- Provide ground water quality monitoring well(s); and,
- Provide flowway connections to adjacent Conservation Lands.

The proposed map amendments will allow the subject property to be added to Maps 6 and 7 in order to be within the central water and wastewater service areas.

For the reasons discussed in this staff report, staff recommends that the Board of County Commissioners **TRANSMIT CPA2019-0009 and CPA2019-00011**.

**PART 5
LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: July 27, 2020

A. LOCAL PLANNING AGENCY REVIEW:

The applicant's representatives provided a detailed presentation of the proposed amendments including public outreach; existing conditions, zoning, and future land use categories; environmental impacts; water resources; wellfield protection; commercial needs analysis; and Lee Plan consistency.

Following the applicant's presentation members of the LPA asked questions for clarification concerning the location of stormwater management areas in relation to the Wellfield Protection Zones and expressed concern of internal consistency of the Policy. The applicant and staff agreed that further clarification could be made.

Members of the LPA also asked about uses appropriate in the wellfield protection zones; impacts specific to black bears, Florida panthers, and the Florida Bonneted Bat; clarifications about impacts to wetlands; flowway connections; and the possibility for a concurrent rezoning request in order to have a better understanding of proposed uses and wetland impacts. The applicant stated that they intended to prepare and submit a concurrent rezoning application to be ready prior to the proposed amendments going to the BoCC for final adoption.

Following the applicant’s presentation and questions from the members of the LPA, staff provided a brief summary of the amendment including staff’s conclusions and recommendation.

One member of the public addressed the LPA, stating opposition to the proposed amendments and concern over the potential flooding upstream.

A motion was made to recommend the BoCC transmit CPA2019-00009. The motion also included a request for the applicant to request a rezoning concurrent with this plan amendment for consideration by the Board of County Commissioners at the time of adoption.

During discussion of the motion, members of the LPA stated that there were positives about the proposed amendment. However, they were concerned about the uncertainties concerning impacts to wildlife and wetlands. The LPA also discussed requirements for flowway restoration on the site.

B. LOCAL PLANNING AGENCY RECOMMENDATION:

CPA2020-00009:

A motion was made to recommend the BoCC **transmit** CPA2019-00009 with modifications. The motion included a request to revise the language to further address impacts to species, impacts to flowways, and rewrite Policy 33.5.1, #5 for clarity. The motion was called and passed 4-1.

VOTE:

RAYMOND BLACKSMITH	AYE
DUSTIN GARDNER	ABSENT
JAMES INK	AYE
ALI OLIVO	NAY
DON SCHROTENBOER	AYE
STAN STOUDE	AYE
HENRY ZUBA	ABSENT

CPA2020-00011:

A motion was made to recommend the BoCC **transmit** CPA2019-00011 as recommended by staff. The motion was called and passed 5-0.

RAYMOND BLACKSMITH	AYE
DUSTIN GARDNER	ABSENT
JAMES INK	AYE
ALI OLIVO	AYE
DON SCHROTENBOER	AYE
STAN STOUDE	AYE
HENRY ZUBA	ABSENT

C. STAFF RESPONSE AND RECOMMENDATION:

To address concerns raised by the LPA, staff provides the following.

Rewrite Policy 33.5.1, #5 for clarity. Although staff and the applicant understand the intent of the requirement for Wellfield protection, it was acknowledged that there could be confusion and the policy should be clarified for better understanding. To address this staff and the applicant propose a revision that will provide separate requirements for compliance with the Wellfield Protection Ordinance and stormwater management requirements as shown below.

5. The entire development is consistent with the most restrictive wellfield protection zone as provided in the Wellfield Protection Ordinance.
6. If development is proposed within the 6-month, 1-year, 5-year, or 10-year travel zones of the Wellfield Protection Ordinance, a total of 1 ½ inches of stormwater treatment, ½ inch of which must be completed via dry pretreatment, must be provided at a minimum. Dry and wet treatment must be located outside of the 6-month and 1-year travel zones. The entire development will be considered to be within the most restrictive wellfield protection zone as provided in the Wellfield Protection Ordinance.

The proposed revision clarifies that wet and dry treatment of stormwater may occur within the 5 and 10-year travel zones even though, for the purposes of land uses and storage of materials, the entire development will be considered to be within the most restrictive wellfield protection zone as provided in the Wellfield Protection Ordinance.

The LPA, raised concerns about unknown **impacts to listed species**, specifically black bears, Florida panthers, and the Florida Bonneted Bat. Lee Plan Policy 123.3.3 requires that all non-agricultural development in non-urban areas is required to create a human-wildlife coexistence plan at time of development order. Both DR/GR and the Wetlands future land use category are considered to be future non-urban areas, so future development of this property will require a human-wildlife coexistence plan. To provide for additional protections and for consistency with how potential impacts to wildlife are addressed in the Environmental Enhancement and Protection Communities Overlay, staff is proposing the following addition to Policy 33.5.1:

9. The indigenous management plan includes a human-wildlife coexistence plan that at a minimum provides for bear-proof refuse containers, below ground grease traps, and prevents light spillage onto adjacent preserve areas.

To address the uncertainty to **wetlands and flowways impacts** the applicant has committed to delaying final adoption of the proposed amendments until the required Commercial Planned Development can be presented to the Board of County Commissioners concurrently. Additionally, there are numerous provisions within Goals 123, 124, and 125, as well as LDC and SFWMD requirements for stormwater management that will require the protection and restoration of wetlands and flowways that are on the subject property. The other commercial property that could benefit from these amendments does not appear to contain any wetlands or existing flowways.

In addition to the amendments requested by the applicant and reviewed by the LPA, staff is also recommending a minor amendment to Policy 55.1.3 to address recent comments from the South Florida Water Management District (SFWMD) concerning consistency with Florida Statute 163.3177(1)(b) and 163.3177(6)(c)3. SFWMD has requested Lee County reference the specific Water Supply Plan. To address these concerns, staff is proposing the following revisions to Policy 55.1.3.

POLICY 55.1.3: Actively implement and utilize the 2017 Water Supply Facilities Work Plan as a guide to potable water supply facility planning consistent with Table 5, the 10 Year Water Supply Development Projects Table, potable water resources, and water conservation.

Staff continues to recommend that the Board of County Commissioners **transmit CPA2019-0009 and CPA2019-00011**. Attachment 1 contains the staff recommendation as updated to address the LPA motion. New language is shown with double underline.

**PART 6
ATTACHMENTS**

Attachment 1: Proposed Text Amendments (CPA2019-00009)

Attachment 2: Proposed Map 6 & 7 Boundary Change (CPA2019-00011)

Electronic Files:

<https://www.leegov.com/dcd/planning/cpa/compplansearch?case=CPA2019-00009>

<https://www.leegov.com/dcd/planning/cpa/compplansearch?case=CPA2019-00011>

ATTACHMENT 1

II. Future Land Use

POLICY 1.4.5: The Density Reduction/Groundwater Resource (DR/GR) land use category includes upland areas that provide substantial recharge to aquifers most suitable for future wellfield development. These areas also are the most favorable locations for physical withdrawal of water from those aquifers. Only minimal public facilities exist or are programmed.

2. Permitted land uses include agriculture, natural resource extraction and related facilities, conservation uses, public and private recreation facilities, and residential uses at a maximum density of one dwelling unit per ten acres (1 du/10 acres). See Objectives 33.3 and 33.4~~Policies 33.3.2, 33.3.3, and 33.3.4~~ for potential density adjustments resulting from concentration or transfer of development rights.

a. ~~For residential development, also see Objective 33.3 and following policies.~~
Commercial and civic uses can may only be permitted on properties in Southeast Lee County as provided in Objectives 33.3 and 33.5 incorporated into Mixed-Use Communities, Environmental Enhancement and Preservation Communities, and Rural Golf Course Communities that are depicted on Map 17 to the extent specifically provided in those policies.

(Ordinance No. 91-19, 94-30, 99-16, 02-02, 10-20, 12-24, 15-13, 18-18)

POLICY 33.3.5: Commercial uses may only be permitted if on properties with existing conventional commercial zoning approved prior to September 17, 1990, or if incorporated into a Mixed-Use Community, Environmental Enhancement and Preservation Community, or Rural Golf Course Community depicted on Map 17. The maximum commercial floor area that may be approved within the Southeast Lee County community plan area may not exceed 300,000 square feet.

OBJECTIVE 33.5: COMMERCIAL ZONING APPROVED PRIOR TO SEPTEMBER 17, 1990. To allow development of commercial uses on properties designated DR/GR that have existing conventional commercial zoning approved prior to September 17, 1990.

POLICY 33.5.1: Property with existing conventional commercial zoning approved prior to September 17, 1990 may be approved for development of commercial uses if the project is found consistent with and demonstrates through a planned development rezoning all of the following:

1. The allowable total square footage for commercial uses in Southeast Lee County set forth in Policy 33.3.5 is not exceeded.
2. The development will be served by central water and sewer.
3. The development will be designed to minimize impacts to wetlands by only allowing impacts for stormwater retention/detention, accessways, and limited parking. Buildings and structures are prohibited in wetlands. Deviations may be considered through the planned development process to facilitate protection of wetlands.
4. The development does not exceed 10,000 square feet per upland acre of commercial uses and does not include any of the following uses: auto parts stores, lawn and garden supply stores, fuel pump stations, drycleaners (on-site), or any other use that is not compatible with protecting Southeast Lee County's environment.
5. The entire development is consistent with the most restrictive wellfield protection zone as provided in the Wellfield Protection Ordinance.
6. ~~If development is proposed within the 6-month, 1-year, 5-year, or 10-year travel zones of the Wellfield Protection Ordinance, a total of 1 ½ inches of stormwater treatment, ½ inch of which must be completed via dry pretreatment, must be provided at a minimum. Dry and wet treatment must be located outside of the 6-month and 1-year travel zones. The entire development will be considered to be within the most restrictive wellfield protection zone as provided in the Wellfield Protection Ordinance.~~
67. Ground water quality monitoring well(s) for the Surficial Aquifer System are provided and located between Lee County's nearest production well(s) and the development.
78. Flowway connection(s) are provided for all surface water discharge to adjacent Conservation Lands.
9. The indigenous management plan includes a human-wildlife coexistence plan that at a minimum provides for bear-proof refuse containers, below ground grease traps, and prevents light spillage onto adjacent preserve areas.

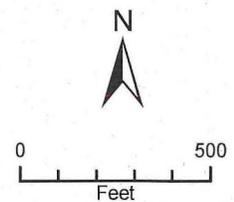
POLICY 55.1.3: Actively implement and utilize the 2017 Water Supply Facilities Work Plan as a guide to potable water supply facility planning consistent with Table 5, the 10 Year Water Supply Development Projects Table, potable water resources, and water conservation.

ATTACHMENT 2



CPA2019-00011
Small Brothers Commercial
Current Water and Sewer Service Area

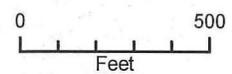
-  Subject Property
-  Existing Future Water and Sewer Service Area





CPA2019-00011
Small Brothers Commercial
Proposed Water and Sewer Service Area

-  Subject Property
-  Proposed Future Water and Sewer Service Area



TO VIEW APPLICANT MATERIALS FOR
CPA2019-00009 (SMALL BROTHERS
COMMERCIAL)

CLICK THE LINK BELOW:

[Click Here](#)

TO VIEW APPLICANT MATERIALS FOR
CPA2019-00011 (SMALL BROTHERS
COMMERCIAL UTILITIES)

CLICK THE LINK BELOW:

[Click Here](#)